

United States Court of Appeals
FOR THE EIGHTH CIRCUIT

No. 00-1692

C. B. Allison,

Appellant,

v.

Treadco, Inc.,

Appellee.

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* Appeal from the United States
* District Court for the Eastern
* District of Arkansas.
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* [UNPUBLISHED]
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Submitted: January 8, 2001

Filed: January 19, 2001

Before RICHARD S. ARNOLD, FAGG, and BOWMAN, Circuit Judges.

PER CURIAM.

C.B. Allison declined a transfer to a new job position at Treadco, Inc. After Allison retired, he brought this action against Treadco asserting age discrimination and constructive discharge. The district court granted Treadco summary judgment, concluding Allison failed to create a genuine issue of material fact on the questions of constructive discharge and pretext. On appeal, Allison contends he presented a jury question on whether Treadco had created an intolerable work environment that forced him to resign and whether the transfer decision was a pretext for discrimination. We agree with the district court that Allison failed to put forth evidence to show an

objective person would have felt forced to quit. There was no evidence the new position required Allison to perform duties he was incapable of performing, or that Treadco could reasonably foresee Allison would resign as a consequence of the reassignment. Indeed, the evidence showed Treadco made the reassignment to continue providing Allison with a company vehicle to drive to work after the manager, who allowed Allison to drive his company truck as a courtesy, was replaced with a new manager who needed to drive the manager's truck. Further, the reassignment involved no decrease in salary or benefits, Allison had performed many of the duties of the new job before, and Allison did not ask to remain in his old position. Allison also failed to present evidence that Treadco's reason for reassigning Allison was both incorrect and a pretext for intentional age discrimination. We thus affirm on the basis of the district court's summary judgment opinion and order. See 8th Cir. R. 47B.

A true copy.

Attest:

CLERK, U.S. COURT OF APPEALS, EIGHTH CIRCUIT.